

# Exhibit 19:

## James Schaafsma Expert Report

## **DECLARATION OF JAMES E SCHAAFSMA**

1. My legal practice has focused on low-income housing issues for almost 30 years. Since 1997, I have been the Housing Attorney at the Michigan Poverty Law Program. MPLP provides support to advocates for Michigan's low-income residents. In my work, I regularly consult with housing advocates, primarily legal aid attorneys, across Michigan (and beyond).
2. During my time at MPLP I have developed an expertise in federally subsidized housing issues. I provide case support, and also do trainings and presentations and publications work, among other activities. I also do direct advocacy, including litigation (of late, primarily amicus briefs), and legislative and administrative advocacy.
3. I am also frequently consulted by and provide service to people beyond the legal aid community on low-income housing issues, including private attorneys, local and statewide non-profit organizations, the state (legislators and their staffs, executive office and administrative agency personnel, state court system personnel), as well as local government officials, academics, and media members, among others. I am active in several national housing advocacy organizations.
4. In 1998, Congress enacted a provision barring admission to HUD subsidized housing programs to persons "subject to a lifetime registration requirement under a State sex offender registration program." *See Quality Housing and Work Responsibility Act of 1998*, Pub. L. No. 105-276, title V, subtitle F, § 578, 112 Stat. 2461. This enactment was codified at 42 U.S.C. § 13663. HUD promulgated regulations implementing this statutory law in 2001. *See 24 CFR 5.856* (HUD Multifamily Assisted Housing); 24 CFR 960.204(a)(4); 24 CFR 982.553(a)(2) (HUD Section 8 Housing Choice Voucher (HCV) program).
5. For all other types of criminal activity (e.g., drug-related and violent crime) for which federal law constrains admission to HUD subsidized housing, housing providers can only look back for such activity for a "reasonable time." 42 U.S.C. § 13661(c). HUD has said that 5 years is a "reasonable [look back] period for serious offenses." *See Screening and Eviction for Drug Abuse and Other Criminal Activity Final Rule*, 66 Fed. Reg. 28776, 28779 (2001). But, many housing providers have

adopted much shorter periods. For example, the Michigan State Housing Development Authority, which administers nearly half of the 64,000 Housing Choice Vouchers in Michigan (*see* HUD HCV Data Dashboard [Summary Page](#)), has adopted “look back” periods of 3 months for drug related criminal activity and 12 months for violent criminal activity. *See* MSHDA, [HCV Administrative Plan](#), Ch 3-III.C., p. 3-23-24.

6. As residential rents have steadily risen in Michigan and the [Midwest](#) over the last several years, the supply of “naturally occurring” affordable housing has declined. For low-income renters, about the only way to secure affordable housing is by participating in a federally subsidized housing program.

7. As compared to people with other types of criminal histories – which may temporarily delay their access to HUD subsidized housing – for persons subject to a state-based lifetime sex offender registration requirement, the door to HUD subsidized housing is permanently closed. Precisely speaking, it is *not* their criminal history that prohibits their admission to HUD subsidized housing, but instead their lifetime registration requirement.

8. Over the years, I have consulted with advocates across Michigan whose clients are decades away from the only item in their criminal history. But that item subjects them to a state-imposed lifetime registration requirement, dooming any hope of their ever getting HUD subsidized housing.

9. To be clear, people who commit a violent felony, or who have a conviction for dealing drugs, are eligible for subsidized housing, with just the *possibility* of some delay, and only if their conviction was recent. But the 1998 federal housing law – consistent with the views of that time – treats all people who committed a lifetime registrable offense the same, no matter how old their crime, how short their sentence, or how successful their lives since. They are barred from HUD subsidized housing forever, without regard to their current risk to society.

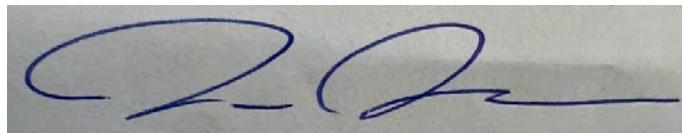
### **Statement of Compensation**

I have received no compensation for making this declaration.

**Oath and Signature**

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury that the above statements are true and correct to the best of my knowledge, information and belief.

February 24, 2023

A handwritten signature in blue ink, appearing to read "JESchaafsma".

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James E. Schaafsma (P42899)

## JAMES EDWARD SCHAAFSMA

### **PROFESSIONAL**

1997 – Present **Housing Attorney, Michigan Poverty Law Program**, Ypsilanti, MI

MPLP is the statewide backup center for all legal aid programs in Michigan. I am recognized as a statewide expert on low-income housing law issues. Through case consultation, co-counseling, substantive and skills-based training, publication work, policy analysis and development, legislative and administrative advocacy, litigation and advocacy coordination, I support and advance the work of legal services programs and other organizations working for low-income persons on housing issues throughout Michigan. My housing support work and advocacy encompasses the full range of rental housing and homeownership problems, with particular focus on the federally assisted multifamily housing programs, and recently, the COVID-19 eviction risk and policy responses to it, including emergency rental assistance programs and court system responsive measures.

1991 – 1997 **Attorney, Legal Services of Southeastern Michigan**, Ann Arbor, MI

My practice included trial and appellate advocacy in state and federal courts, client counseling and education, as well as participation in community organizations and projects, with an emphasis on housing and consumer law. During my seven years of LSC field experience, I earned a reputation as a go-to person on housing issues, which resulted in MPLP hiring me to be the head Michigan housing attorney.

### **EDUCATION**

The University of Michigan Law School, Ann Arbor, Michigan, J.D. (1989)

Calvin College, Grand Rapids, Michigan, B.A. in Interdisciplinary Studies (1986)

### **SELECTED CURRENT ACTIVITIES**

Coordinator, Michigan Housing Task Force

Member, Policy Advisory Committee, National Low Income Housing Coalition

Member, Michigan Supreme Court's Justice for All Commission's Summary Proceedings Work Group, and Michigan COVID Emergency Rental Assistance (CERA) program leadership team

Contributor, Institute for Continuing Legal Education (ICLE) (chapter author, Advising Clients on Elder and Disability Law, and Michigan Causes of Action Formbook)

Regular presentations, trainings, and articles on low-income housing issues